

THE HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

WRIT PETITION No.31926 OF 2015

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ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Revenue.

The personal notice taken out by the petitioner on the 4th respondent is returned with a refusal endorsement and proof of service is filed by learned counsel for the petitioner on 03.11.2015 vide U.S.R.No.25801 of 2015. In view of the same, the 4th respondent is deemed to have been served.

The grievance of the petitioner is that against the orders of the Tahsildar, Narayankhed Mandal, Medak District, the 3rd respondent, issuing pattadar passbook and title deeds to the 4th respondent by order dated 14.09.2013, the petitioner preferred an appeal before the Revenue Divisional Officer, Sanga Reddy Division, Medak District, the 2nd respondent. In the stay petition filed therein, the 2nd respondent passed an order dated 16.04.2015, granting stay of operation of the orders of the 3rd respondent until further orders. However, later on, by further order dated 06.06.2015, the stay order granted earlier was vacated on the ground that the petitioner is neither pattadar nor possessor and a civil Suit in O.S.No.36 of 2008 before the Senior Civil Judge, Zaheerabad, for perpetual injunction, was dismissed on 26.06.2013. The present Writ Petition is filed against the order dated 06.06.2015, primarily on the ground that the stay was vacated without notice to the petitioner.

Though learned Government Pleader for Revenue has not received

instructions, since the 4th respondent is not contesting the present Writ Petition and the averments made in the Writ affidavit are not controverted in spite of giving opportunities, it has to be presumed that the impugned order is passed without notice to the petitioner. Hence, the same cannot be sustained and is liable to be set aside.

The Writ Petition is accordingly allowed and the impugned order is set aside. Consequently, the earlier order, dated 16.04.2015, of the 2nd respondent granting stay shall revive and continue to remain in force, pending the appeal. The 2nd respondent shall, however, fix an early date for hearing of the appeal along with the stay petition, after giving notice to the parties and pass appropriate orders, expeditiously in accordance with law. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

VILAS V.AFZULPURKAR, J

06.11.2015

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